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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/345,223

06/30/1999

DEAN J. BLACKKETTER

14531.82.2

9972

22913

7590

06/03/2004

WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER &
SEELEY)

60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 06/03/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/345,223

Applicant(s)

BLACKKETTER ET AL.

Examiner

Reuben M. Brown

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/20/2004 has been entered.

Response to Arguments

2. Applicant's arguments filed 2/20/04 have been fully considered but they are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-21 & 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosser, (U.S. Pat # 6,446,261).

Considering claim 1, Rosser meets the claimed subject matter by teaching that objects may be transmitted to a subscriber's terminal and stored in memory, col. 7, lines 50-59, wherein insertions 58 & 60 may be locally stored. Rosser also displays another embodiment that LVIS information may be stripped from the VBI of a TV signal by an interpreter 164 and stored in data storage 168. The LVIS information is mixed with live video information by the mixing unit 102 (col. 10, lines 36-45) or mixer 165 (col. 14, lines 55-60). Thus the claimed method for creating custom advertisements in a timely manner for display with a TV program, such that the custom advertisements include custom advertisement information that can be transmitted over a low-bandwidth channel, comprising storing in a receiver an advertisement template that is identified by a first resource identifier reads on the disclosure of Rosser, see col. 14, lines 26-67. Rosser teaches that the LVIS information may be stored in a subscriber's terminal, the content of the video is advertising information, Abstract, col. 13, lines 49-51 & col. 14, lines 10-20.

The claimed feature of monitoring low bandwidth data service channel for an advertisement summary that is addressed to the advertising template, such that advertisement summary includes a second resource identifier and custom advertisement information reads on the disclosure of Rosser that the LVIS may be transmitted in the VBI, wherein the interpreter 164 detects & extracts the LVIS, col. 6, lines 61-67.

As for the additionally claimed feature of creating the custom advertisement by combining formatting information from the advertisement template and custom advertisement, when it is determined that the first and second resource identifiers match, Rosser discloses that the information that is stored at the subscriber terminal is combined with specific format information that is transmitted over the VBI to create a custom image; see col. 3, lines 15-25; co.. 7, lines 33-45 & col. 10, lines 36-45.

As for the additionally claimed feature that the entire custom advertisement cannot be transmitted over the low-bandwidth channel, Rosser teaches that one portion of the advertisement is standard video, which is not transmitted over a low-bandwidth channel, col. 7, lines 42-45 & col. 10, lines 45-47 & col. 14, lines 65-67.

Considering claim 2, Rosser is directed to custom advertising, see Abstract.

Considering claim 3, the custom advertisement in Rosser may include multiple additional objects added to an advertisement.

Considering claim 4, the resource identifiers in Rosser identify the components of the custom advertisement and are at least local to a subscriber's system, such as insertions 58 & 60; col. 750-60.

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Considering claims 5, 12-14 & 21, comprise elements that correspond with subject matter mentioned above in the rejection of claim 1, and are likewise treated.

Considering claim 6, the custom advertisement of Rosser may be broadcast to a plurality of receivers.

Considering claims 7-10, see col. 6, lines 61-67 & col. 10, lines 11-21. Also Rosser discloses that the broadcast video signal may be digital, analog, PAL, SECAM, HDTV, etc., (col. 10, lines 45-51).

Considering claim 15, see col. 17, lines 55-67 & col. 21, lines 35-40.

Considering claim 16, Rosser teaches the use of the Internet, which uses hyperlinks, col. 10, lines 54-57 & col. 11, lines 50-60.

Considering claims 17-18, the claimed time stamp and time-out features read on Rosser, col. 13, lines 19-26 & col. 14, lines 41-44.

Considering claim 19, see col. 4, lines 49-54.

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Considering claim 20, Rosser discloses that the advertising stored in audio/video storage 152 may be retrieved and displayed at its appropriate time or at least when a viewer changes channel, which reads on the claimed subject matter, col. 13, lines 21-28.

Considering claim 23, Rosser is directed to displaying custom commercial advertisements.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosser.

Considering claim 11, Rosser does not discuss any checksum technology. Official Notice is taken that at the time the invention was made, error-checking techniques in data transmission was well known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Rosser to include an error checking algorithm at least for the known improvement of determining whether received data is corrupted.

Considering claim 22, Rosser teaches the benefit of using a low-bandwidth data channel but does not disclose the formula recited in the claim. Official Notice is taken that at the time the invention was made, bandwidth optimization techniques were known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Rosser in a manner such that the stored data is of a value that is relatively small, at least in order to conserve memory space at the subscriber's terminal.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Gordon Teaches storing templates of video objects at a STB.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 746-6861 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Reuben M. Brown, whose telephone number is (703) 305-2399.
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the
organization where this application or proceeding is assigned is (703) 872-9306 for regular
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

REUBEN M. BROWN
PATENT EXAMINER

Reuben M. Brown